



General Assembly

January Session, 2005

Raised Bill No. 6783

LCO No. 3711

03711____ENV

Referred to Committee on Environment

Introduced by:
(ENV)

***AN ACT CONCERNING THE PRESERVATION AND USE OF
AGRICULTURAL LANDS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 8-3 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2005*):

3 (a) Such zoning commission shall provide for the manner in which
4 regulations under section 8-2 or 8-2j and the boundaries of zoning
5 districts shall be respectively established or changed. No such
6 regulation or boundary shall become effective or be established or
7 changed until after a public hearing in relation thereto, held by a
8 majority of the members of the zoning commission or a committee
9 thereof appointed for that purpose consisting of at least five members.
10 Such hearing shall be held in accordance with the provisions of section
11 8-7d. A copy of such proposed regulation or boundary shall be filed in
12 the office of the town, city or borough clerk, as the case may be, in such
13 municipality, but, in the case of a district, in the offices of both the
14 district clerk and the town clerk of the town in which such district is
15 located, for public inspection at least ten days before such hearing, and
16 may be published in full in such paper. The commission may require a

17 filing fee to be deposited with the commission to defray the cost of
18 publication of the notice required for a hearing.

19 (b) Such regulations and boundaries shall be established, changed
20 or repealed only by a majority vote of all the members of the zoning
21 commission, except as otherwise provided in this chapter. In making
22 its decision the commission shall take into consideration the plan of
23 conservation and development, prepared pursuant to section 8-23, and
24 shall state on the record its findings on consistency of the proposed
25 establishment, change or repeal of such regulations and boundaries
26 with such plan. If a protest against a proposed change is filed at or
27 before a hearing with the zoning commission, signed by the owners of
28 twenty per cent or more of the area of the lots included in such
29 proposed change or of the lots within five hundred feet in all
30 directions of the property included in the proposed change, such
31 change shall not be adopted except by a vote of two-thirds of all the
32 members of the commission.

33 (c) All petitions requesting a change in the regulations or the
34 boundaries of zoning districts shall be submitted in writing and in a
35 form prescribed by the commission and shall be considered at a public
36 hearing within the period of time permitted under section 8-7d. A
37 petition requesting a regulation change or a change in a zoning district
38 boundary on land for which development rights are held by the state
39 pursuant to sections 22-26aa to 22-26jj, inclusive, shall only be
40 considered if such petition is accompanied by a letter of approval for
41 such regulation or boundary change from the Commissioner of
42 Agriculture or the commissioner's designee. The commission shall act
43 upon the changes requested in such petition. Whenever such
44 commission makes any change in a regulation or boundary it shall
45 state upon its records the reason why such change is made. No such
46 commission shall be required to hear any petition or petitions relating
47 to the same changes, or substantially the same changes, more than
48 once in a period of twelve months.

49 (d) Zoning regulations or boundaries or changes therein shall
50 become effective at such time as is fixed by the zoning commission,
51 provided a copy of such regulation, boundary or change shall be filed
52 in the office of the town, city or borough clerk, as the case may be, but,
53 in the case of a district, in the office of both the district clerk and the
54 town clerk of the town in which such district is located, and notice of
55 the decision of such commission shall have been published in a
56 newspaper having a substantial circulation in the municipality before
57 such effective date. In any case in which such notice is not published
58 within the fifteen-day period after a decision has been rendered, any
59 applicant or petitioner may provide for the publication of such notice
60 within ten days thereafter.

61 (e) The zoning commission shall provide for the manner in which
62 the zoning regulations shall be enforced.

63 (f) No building permit or certificate of occupancy shall be issued for
64 a building, use or structure subject to the zoning regulations of a
65 municipality without certification in writing by the official charged
66 with the enforcement of such regulations that such building, use or
67 structure is in conformity with such regulations or is a valid
68 nonconforming use under such regulations. Such official shall inform
69 the applicant for any such certification that such applicant may
70 provide notice of such certification by either (1) publication in a
71 newspaper having substantial circulation in such municipality stating
72 that the certification has been issued, or (2) any other method provided
73 for by local ordinance. Any such notice shall contain (A) a description
74 of the building, use or structure, (B) the location of the building, use or
75 structure, (C) the identity of the applicant, and (D) a statement that an
76 aggrieved person may appeal to the zoning board of appeals in
77 accordance with the provisions of section 8-7. An application for a
78 building permit or certificate of occupancy for a building, use or
79 structure on lands for which development rights are held by the state
80 pursuant to sections 22-26aa to 22-26jj, inclusive, shall be accompanied
81 by a letter of approval from the Commissioner of Agriculture or the

82 commissioner's designee. Such letter shall verify that the application is
83 in compliance with existing deed covenants pursuant to sections 22-
84 26aa to 22-26jj, inclusive.

85 (g) The zoning regulations may require that a site plan be filed with
86 the commission or other municipal agency or official to aid in
87 determining the conformity of a proposed building, use or structure
88 with specific provisions of such regulations. If a site plan application
89 involves an activity regulated pursuant to sections 22a-36 to 22a-45,
90 inclusive, the applicant shall submit an application for a permit to the
91 agency responsible for administration of the inland wetlands
92 regulations not later than the day such application is filed with the
93 zoning commission. The decision of the zoning commission shall not
94 be rendered on the site plan application until the inland wetlands
95 agency has submitted a report with its final decision. In making its
96 decision the zoning commission shall give due consideration to the
97 report of the inland wetlands agency. A site plan may be modified or
98 denied only if it fails to comply with requirements already set forth in
99 the zoning or inland wetlands regulations. Approval of a site plan
100 shall be presumed unless a decision to deny or modify it is rendered
101 within the period specified in section 8-7d. A certificate of approval of
102 any plan for which the period for approval has expired and on which
103 no action has been taken shall be sent to the applicant within fifteen
104 days of the date on which the period for approval has expired. A
105 decision to deny or modify a site plan shall set forth the reasons for
106 such denial or modification. A copy of any decision shall be sent by
107 certified mail to the person who submitted such plan within fifteen
108 days after such decision is rendered. The zoning commission may, as a
109 condition of approval of any modified site plan, require a bond in an
110 amount and with surety and conditions satisfactory to it, securing that
111 any modifications of such site plan are made or may grant an
112 extension of the time to complete work in connection with such
113 modified site plan. The commission may condition the approval of
114 such extension on a determination of the adequacy of the amount of
115 the bond or other surety furnished under this section. The commission

116 shall publish notice of the approval or denial of site plans in a
117 newspaper having a general circulation in the municipality. In any
118 case in which such notice is not published within the fifteen-day
119 period after a decision has been rendered, the person who submitted
120 such plan may provide for the publication of such notice within ten
121 days thereafter.

122 (h) Notwithstanding the provisions of the general statutes or any
123 public or special act or any local ordinance, when a change is adopted
124 in the zoning regulations or boundaries of zoning districts of any
125 town, city or borough, no improvements or proposed improvements
126 shown on a site plan for residential property which has been approved
127 prior to the effective date of such change, either pursuant to an
128 application for special exception or otherwise, by the zoning
129 commission of such town, city or borough, or other body exercising
130 the powers of such commission, and filed or recorded with the town
131 clerk, shall be required to conform to such change.

132 (i) In the case of any site plan approved on or after October 1, 1984,
133 except as provided in subsection (j) of this section, all work in
134 connection with such site plan shall be completed within five years
135 after the approval of the plan. The certificate of approval of such site
136 plan shall state the date on which such five-year period expires. Failure
137 to complete all work within such five-year period shall result in
138 automatic expiration of the approval of such site plan, except in the
139 case of any site plan approved on or after October 1, 1989, the zoning
140 commission or other municipal agency or official approving such site
141 plan may grant one or more extensions of the time to complete all or
142 part of the work in connection with the site plan provided the total
143 extension or extensions shall not exceed ten years from the date such
144 site plan is approved. "Work" for purposes of this subsection means all
145 physical improvements required by the approved plan.

146 (j) In the case of any site plan for a project consisting of four
147 hundred or more dwelling units approved on or after June 19, 1987, all

148 work in connection with such site plan shall be completed within ten
149 years after the approval of the plan. In the case of any commercial,
150 industrial or retail project having an area equal to or greater than four
151 hundred thousand square feet approved on or after October 1, 1988,
152 the zoning commission or other municipal agency or official approving
153 such site plan shall set a date for the completion of all work in
154 connection with such site plan, which date shall be not less than five
155 nor more than ten years from the date of approval of such site plan,
156 provided such commission, agency or official approving such plan and
157 setting a date for completion which is less than ten years from the date
158 of approval may extend the date of completion for an additional
159 period or periods, not to exceed ten years in the aggregate from the
160 date of the original approval of such site plan. The certificate of
161 approval of such site plan shall state the date on which such work shall
162 be completed. Failure to complete all work within such period shall
163 result in automatic expiration of the approval of such site plan. "Work"
164 for purposes of this subsection means all physical improvements
165 required by the approved plan.

166 (k) A separate zoning district may be established for shorefront land
167 areas utilized for water-dependent uses, as defined in section 22a-93,
168 existing on October 1, 1987. Such district may be composed of a single
169 parcel of land, provided the owner consents to such establishment. The
170 provisions of this section shall not be construed to limit the authority
171 of a zoning commission to establish and apply land use districts for the
172 promotion and protection of water-dependent uses pursuant to section
173 8-2 and sections 22a-101 to 22a-104, inclusive. The provisions of this
174 subsection shall apply to all zoning commissions or other final zoning
175 authority of each municipality whether or not such municipality has
176 adopted the provisions of this chapter or the charter of such
177 municipality or special act establishing zoning in the municipality
178 contains similar provisions.

179 (l) Notwithstanding the provisions of this section to the contrary,
180 any site plan approval made under this section on or before October 1,

181 1989, except an approval made under subsection (j) of this section,
182 shall expire not more than seven years from the date of such approval
183 and the commission may grant one or more extensions of time to
184 complete all or part of the work in connection with such site plan,
185 provided the time for all extensions under this subsection shall not
186 exceed ten years from the date the site plan was approved.

187 Sec. 2. Section 22-6e of the general statutes is repealed and the
188 following is substituted in lieu thereof (*Effective October 1, 2005*):

189 (a) The commissioner may develop a program to encourage the use
190 of vacant public land owned by the state for gardening or agricultural
191 purposes. In order to carry out said program, the commissioner shall:
192 (1) In cooperation with other state agencies, compile a list of all vacant
193 public land owned by the state, that in the opinion of such agencies
194 and the commissioner may be feasibly used for gardening or
195 agriculture, and (2) establish a procedure for application to the
196 department on a form to be furnished by the commissioner for a
197 permit to use available vacant public land for gardening or agricultural
198 purposes. The commissioner shall adopt regulations pursuant to
199 chapter 54 to carry out the provisions of this section, including but not
200 limited to requirements for agreements to use vacant public land for
201 gardening or agricultural purposes, establishment of a fee for such
202 permit, except that no fee shall be charged for gardening permits, and
203 requirements for the use of such land for agricultural purposes based
204 on competitive open bidding. Permits shall be for a period prescribed
205 by the commissioner but shall not exceed [seven] ten years from the
206 date of issuance. After such period permit holders may apply for a
207 new permit or renewal of the permit. Applicants shall submit a plan
208 for such use and shall agree to maintain the land in a condition
209 consistent with such land use plan, and shall agree to abide by
210 regulations adopted by the department pursuant to chapter 54. Failure
211 to carry out the conditions of agreement shall result in the forfeiture of
212 the garden or agriculture permit. Any applicant who is granted the use
213 of vacant public land for gardening or agricultural purposes shall

214 indemnify and save harmless the state and all of its officers, agents and
215 employees against suits and claims of liability of each name and nature
216 arising out of, or in consequence of the use of vacant public land.

217 (b) Any permit issued pursuant to subsection (a) may be terminated
218 by the commissioner, without cause, upon written notice to the
219 permittee.

220 (c) A sponsor who has a gardening permit may assess a fee to
221 individual gardeners for the sole purpose of reimbursing such sponsor
222 for costs incurred in land preparation.

223 (d) Any payments by the permit holder pursuant to an agreement
224 for the use of state land for agricultural purposes shall be credited in
225 equal shares to the General Fund [account] accounts of the [agency]
226 agencies whose land is being used for such purposes and to the
227 Department of Agriculture for the purpose of administering the
228 program.

229 Sec. 3. Subsection (g) of section 22-26cc of the general statutes is
230 repealed and the following is substituted in lieu thereof (*Effective*
231 *October 1, 2005*):

232 (g) The commissioner may issue a letter of intent requesting the
233 assistance of a nonprofit organization, as defined in [subsection (c)(3)
234 of Section 501 of the United States Internal Revenue Code] Section
235 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent
236 corresponding internal revenue code of the United States, as from time
237 to time amended, in acquiring the development rights to certain
238 agricultural land. If such organization acquires such rights it may sell
239 them to the commissioner based on a purchase agreement. Such
240 agreement may include reimbursement for reasonable expenses
241 incurred in the acquisition of the rights as well as payment for the
242 rights. The commissioner may enter into joint ownership agreements
243 to acquire the development rights to any qualified agricultural land
244 with any nonprofit organization, as defined in Section 501(c)(3) of the

245 Internal Revenue Code of 1986, or any subsequent corresponding
246 internal revenue code of the United States, as from time to time
247 amended, provided the mission of such nonprofit organization is the
248 permanent protection of agricultural land for the purposes of
249 continued agricultural use.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2005</i>	8-3
Sec. 2	<i>October 1, 2005</i>	22-6e
Sec. 3	<i>October 1, 2005</i>	22-26cc(g)

Statement of Purpose:

To promote the preservation of agricultural land.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]